



**WEST HANTS REGIONAL MUNICIPALITY
Planning Advisory Committee (PAC) Agenda
October 8, 2020 – 6:00p.m.
Sanford Council Chambers / Zoom**

1.0 Call to Order

2.0 Approval of Agenda and Additions

3.0 Approval of Minutes

4.0 Business Arising from the Minutes

4.1 Update: File # 20-08 Civic Addressing By-law (Madelyn LeMay)

4.2 Update: File # 20-14 Building Code Act By-law (Madelyn LeMay)

4.3 Update: File # 20-18 Fire Inspection Systems Policy (Madelyn LeMay)

4.4 Update: File # 20-19 Repeal of Minimum Standards By-law (Madelyn LeMay)

4.5 Update: File # 20-01 Ski Martock Rd. LUB Amendment (Saira Shah)

4.6 Update: File # 20-02 Cannabis in Hantsport MPS Amendment (Saira Shah)

5.0 Hantsport Area Advisory Committee (HAAC) Updates (Bill Preston)

6.0 Windsor Area Advisory Committee (WAAC) Updates (Shelley Bibby)

7.0 Building and Development Activity Report

8.0 New Business

8.1 File # 20-03 Hwy 236 Recommendation Report (Saira Shah)

8.2 File # 20-20 426 Ashdale Rd. Recommendation Report (Saira Shah)

8.3 File #20-17 543 O'Brien St. WAAC to PAC Recommendation Report (Sara Poirier)

9.0 Notices from Adjacent Municipal Units

10.0 Questions and Comments from Public

11.0 Next Meeting: November 12, 2020

11.0 Adjournment



**WEST HANTS REGIONAL MUNICIPALITY
RECOMMENDATION REPORT**

To: Members of Planning Advisory Committee

Submitted by: _____
Saira Shah, Planner

Date: 2020-10-08

Subject: 583 Hwy#236

File: 20-03

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230.

RECOMMENDATION

In order to allow the requested development, staff recommends that the Planning Advisory Committee (PAC) forward a positive recommendation by passing the following motion:

that PAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to allow a licensed day care at 583 Hwy#236, Scotch Village, which is substantively the same as the draft set out in Appendix C of the report to the Planning Advisory Committee dated October 8, 2020.

BACKGROUND

An application was received on April 7, 2020 from Sarah Hein to permit a licensed day care at 583 Hwy#236, Scotch Village, West Hants. All necessary material for the application was submitted July 30, 2020.

The property is approximately 2.8 acres and the day care will be confined to the existing building and 1,500 square feet of outdoor play space. There will also be a maximum of five (5) parking spaces for the day care.

DISCUSSION

The property is designated Agriculture on the Generalized Future Land Use Map of the MPS (Figure 1) and zoned Agricultural Priority Two (AR-2) on the Zoning Map of the WHLUB (Figure 2). The property is bound on all sides by properties zoned Agricultural Priority Two (AR-2).

A non-licensed day care is permitted as a home-based business. However, a non-licensed day care is limited to six or fewer children and the applicant wishes to operate a licensed day care with approximately 20 children.

Section 6.1 of the WHLUB, *Development Agreements*, states that “*The following developments may be considered only by development agreement in accordance with the Municipal Government Act and the Municipal Planning Strategy:*

(s) Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses in the Agricultural Priority Two (AR-2) zone and the Agricultural Priority Three (AR-3) zone outside the Growth Centre, Village and Hamlet designations in accordance with Policies 8.9.4 and 8.10.5 respectively of the Municipal Planning Strategy;

Although there is no specific definition for a Rural Commercial (RC) use, the best basis for determining what is considered a Rural Commercial (RC) use is the list of permitted uses in that zone in the WHLUB. A Licensed Day Care is a listed permitted use in the Rural Commercial (RC) zone.

Part 8 of the WHMPS contains the overall intention for areas designated Agriculture in West Hants; Section 8.9 indicates the intention of Council for non-agricultural development in areas zoned Agricultural Priority Two (AR-2).

Development Agreements

A development agreement is a legal contract between the Municipality and a property owner that describes the type of development permitted on a property. Development agreements provide an opportunity for Council to exercise a greater degree of control over aspects of a development proposal and allow Council to consider uses that would otherwise not be permitted in the underlying zone. A development agreement is binding upon a property until the agreement is discharged by Council.

The draft development agreement can be found in Appendix C.

Applicant Requests

The applicant requested the ability to have an outdoor play space for the day care up to 1,500 sq. feet. Outdoor play space is defined in the development agreement and must be located in the rear yard and not within 20 feet of a property line. An opaque fence is required to surround the outdoor play space to reduce noise for neighbours. A planting strip is typically required along the property line for a commercial business

and can be a combination of trees, bushes, and fences used as a buffer between commercial and residential uses. However, as the property is much larger than the outdoor play space and a fence is already required in the Nova Scotia Day Care Regulations (Section 22 (3) (c)) an opaque fence instead of a planting strip will be required around the outdoor play space. Several commercial zones in West Hants including Rural Commercial (RC) and Local Commercial (LC) have similar requirements for commercial businesses.

The applicant has stated they will not require a large amount of parking as they intend to have only two (2) staff and will stagger pick-up and drop-off times. A maximum of five (5) parking spaces are permitted in the development agreement and the parking area is outlined in Schedule B.

The applicant intends to operate the day care as an after-school facility during the school year and offer full-day service during summer, winter, and march break holidays. To ensure flexibility for the application the hours of operation shall be limited to 6:30 a.m. to 5:30 p.m. Monday to Friday daily.

WHMPS Specific Criteria

Policy 8.9.4 of the WHMPS establishes Council's intention to consider new non-resource Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses. Policy 8.9.4 establishes the criteria to be considered by Council, which are examined in detail in Appendix A.

Policy 8.9.4 (a) requires an agrologist report to determine that the development site has little or no agricultural capability in accordance with Policy 8.6.1. However, the day care will only take place in an existing garage not resulting in any new buildings. There will also be minimal parking consisting of up to five (5) spaces and an outdoor play space. The parking and the outdoor place space cannot be constructed of paved material to reduce potential impact on soil. Staff considered the challenges in obtaining an agrologist and determined that an agrologist report is not necessary for this application. Although this criterion has not been met staff is making a positive recommendation due to the application meeting the overall intent of Council.

In summary, the remaining criteria are met since:

- the day care will be in an existing building and the parking and outdoor play space will not be on a paved surface and will therefore have no new impact on agricultural capability;
- the day care and accessory parking and outdoor play space are not a use which, because of its size or nature would be more appropriately located in a Growth Centre, Village or Hamlet; and
- Department of Transportation and Infrastructure Renewal confirmed the existing access is acceptable for the day care.

WHMPS General Criteria

Policy 16.3.1 of the WHMPS states general criteria for any development agreement considered in West Hants. These criteria are examined in detail in Appendix B. In summary:

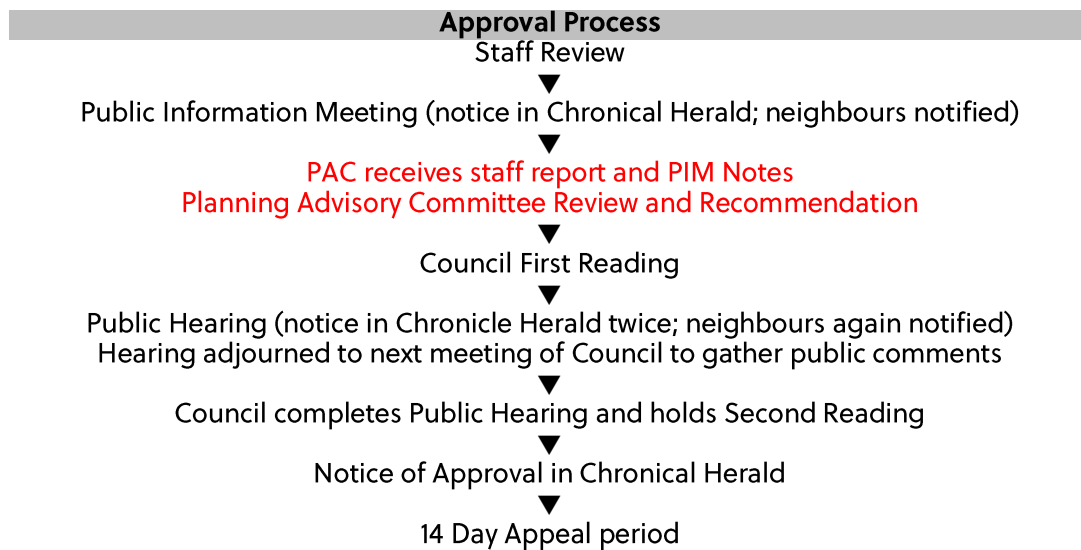
- the proposal is not premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and
- the Fire Chief, Senior Building Official, Director of Public Works and DTIR have no major concerns.

Municipal Climate Change Action Plan

The Municipal Climate Change Action Plan (MCCAP) Inland Flooding and Coastal Flooding maps do not show any risks of either inland or coastal flooding on the property.

Next Steps

As noted above, the proposed development has been considered within the context of both the specific and general policies of the WHMPS and is consistent with the intent, objectives and policies of the WHMPS. The development meets the intent of the specific and general criteria for development agreements as outlined in the WHMPS. As a result, it is reasonable to consider approving the development agreement to permit a licensed day care at 583 Hwy#236, Scotch Village, West Hants.



FINANCIAL IMPLICATIONS

There are no financial implications associated with this application.

ALTERNATIVES

In response to the application, PAC may recommend that Council:

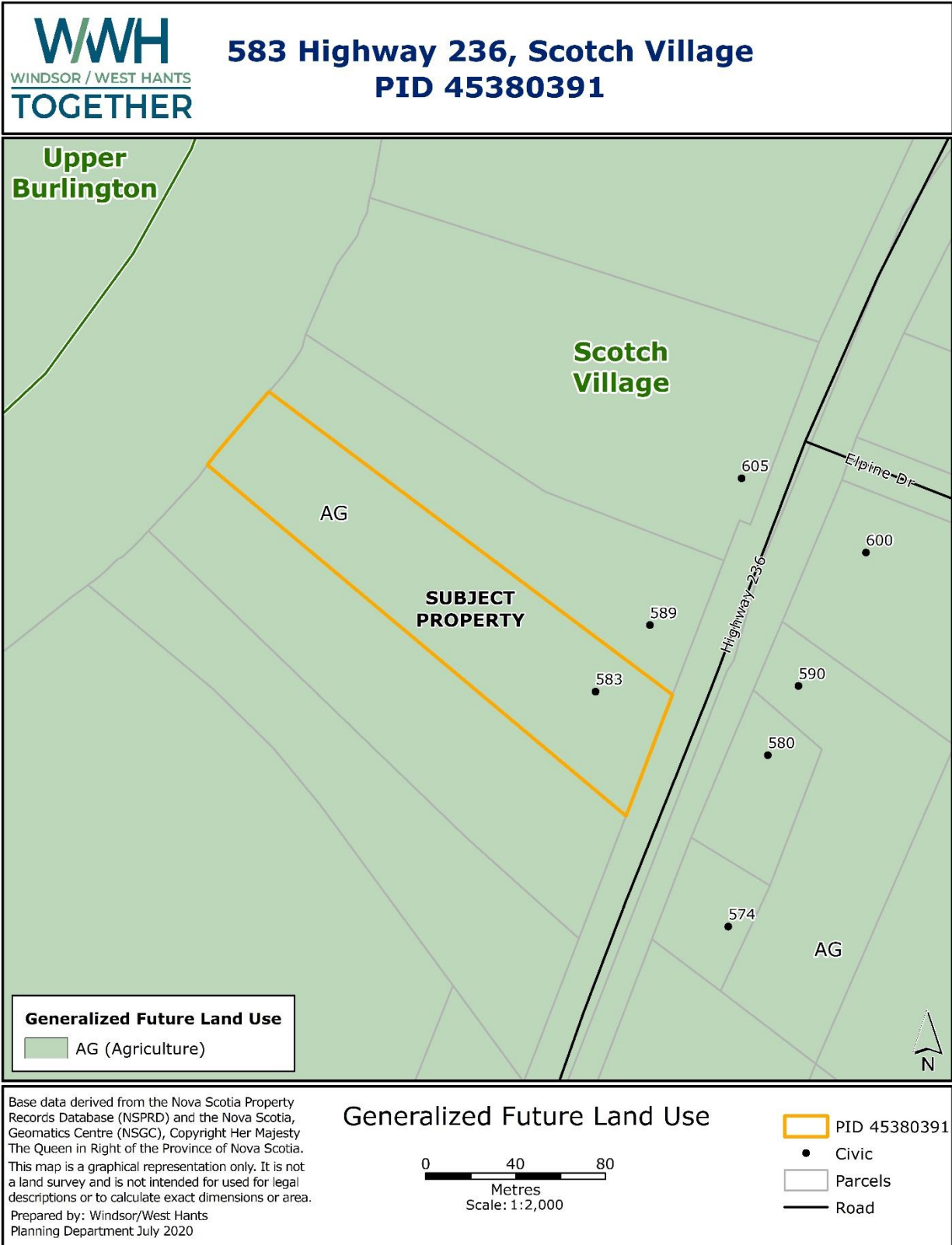
- hold First Reading and authorize a Public Hearing to approve the Development Agreement as drafted or as specifically revised by direction of PAC;
- provide alternative direction such as requesting further information on a specific topic.

ATTACHMENTS

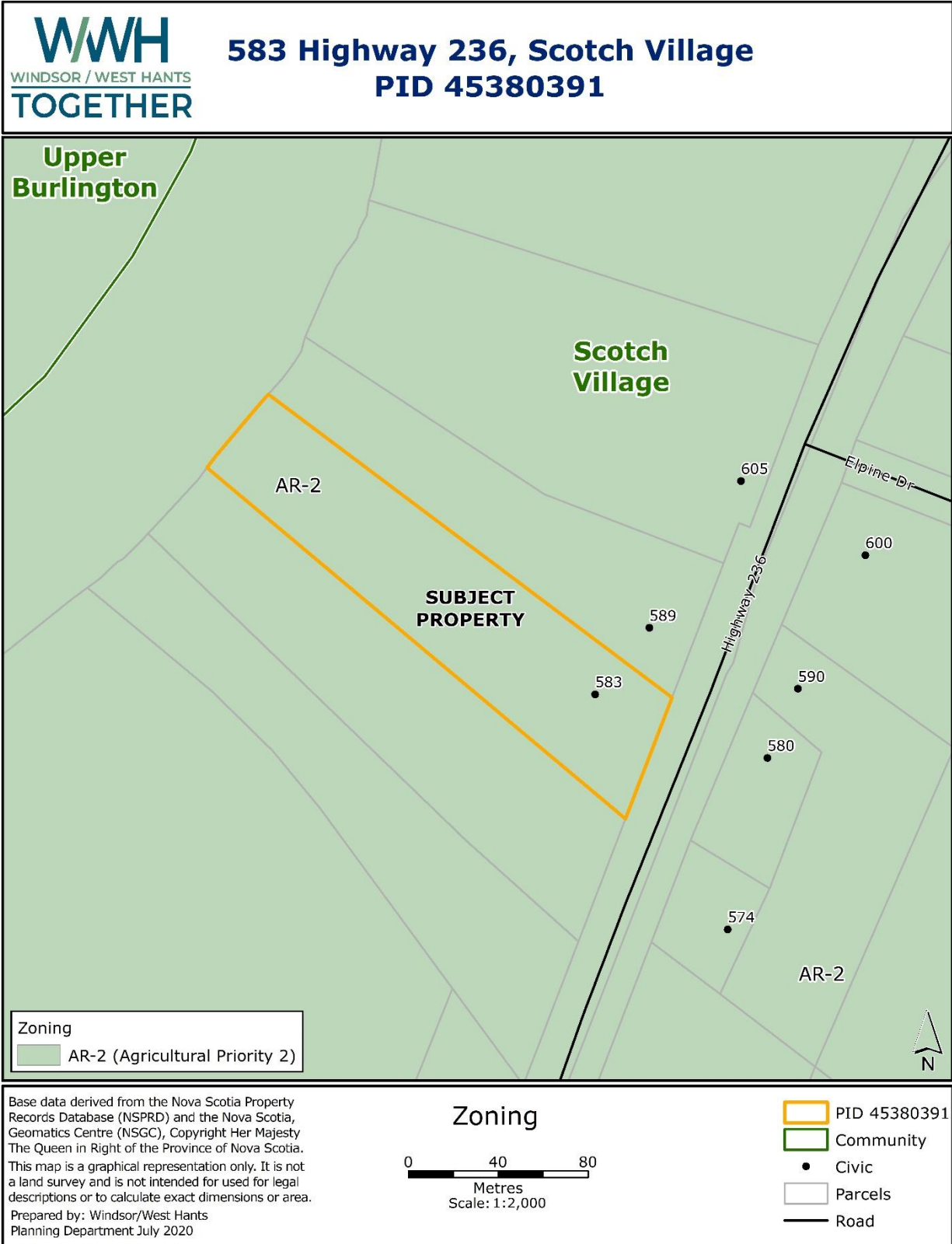
- Figure 1 Generalized Future Land Use Map
 - Figure 2 Existing Zoning Map
 - Appendix A Specific Criteria for Development Agreement
 - Appendix B General Criteria for Development Agreement
 - Appendix C Draft Development Agreement
-

Report Approved by: _____
Madelyn LeMay, Director of Planning and Development

**FIGURE 1
GENERALIZED FUTURE LAND USE MAP**



**FIGURE 2
EXISTING ZONING MAP**



APPENDIX A
SPECIFIC CRITERIA FOR DEVELOPMENT AGREEMENT

Policy 8.9.4 *It shall be the intention of Council to consider new non-resource Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses in the AR-2 zone by development agreement subject to the following:*

CRITERIA	COMMENT
<i>(a) the development site has been determined to have little or no agricultural capability in accordance with Policy 8.6.1;</i>	An agrologist report which is required by Policy 8.6.1 was not provided as the day care will be in an existing building and the parking and outdoor play space will be on an unpaved surface. The uses will therefore have no new impact on agricultural capability.
<i>(b) the proposed use will not compromise or adversely affect the operation or integrity of existing agricultural operations;</i>	The day care will be contained in the existing building and the parking and outdoor play space will be on an unpaved surface. The uses will not compromise or adversely affect the operation or integrity of existing agricultural operations.
<i>(c) the predominant agricultural character of the area will not be adversely affected;</i>	The day care will be contained in the existing building and the parking and outdoor play space will be on an unpaved surface. The uses will not impact the agricultural character of the area.
<i>(d) adequate separation distances and buffering between agricultural and non-agricultural uses can be provided;</i>	The day care will be contained in the existing building with the existing separation distances. The outdoor play space must be 20 feet from any property line and will be required to have an opaque fence surrounding the outdoor play space to ensure adequate separation.
<i>(e) the use is not one which, because of its size or nature, would be more appropriately located in a Growth Centre, Village or Hamlet;</i>	The day care is limited based on the size of the existing building and the accessory parking is limited to five (5) spaces. The outdoor play space is limited to 1,500 sq. feet.
<i>(f) safe and efficient roadway access is provided;</i>	Department of Transportation and Infrastructure Renewal confirmed the

	existing access is acceptable for the proposed future commercial use and a negative impact to the Provincial Road network is not anticipated.
<i>(g) adequate on-site parking is provided;</i>	Five (5) parking spaces are permitted for the day care in the development agreement.
<i>(h) the development is compatible with adjacent land uses with respect to:</i>	
<i>(i) traffic generation and traffic safety;</i>	Please see 8.9.4 (f) for further details.
<i>(ii) hours of operation;</i>	The hours of operation are limited in the development agreement to 6:30 a.m to 5:30 p.m. Monday to Friday daily.
<i>(iii) size and design of building(s);</i>	The day care will be in an existing building.
<i>(iv) signage; and</i>	All signage must meet the requirements of the West Hants Land Use By-law.
<i>(v) pedestrian circulation and safety;</i>	No impact on pedestrian traffic or safety is anticipated.
<i>(i) any other matter which may be addressed in a development agreement;</i>	No other matters have been raised.
<i>(j) Policy 16.3.1.</i>	See Appendix B.

**APPENDIX B
GENERAL CRITERIA FOR DEVELOPMENT AGREEMENT**

Policy 16.3.1 *In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:*

CRITERIA	COMMENT
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	The Director of Public Works stated that the property does not currently have municipal water or sewer, nor are there plans to extend services to the site. As a result, the applicant is responsible for determining adequate services for the proposed use. The applicant has been informed.
<i>(ii) the adequacy of school facilities;</i>	No impact on school facilities is anticipated.
<i>(iii) the adequacy of fire protection and other emergency services;</i>	The Manager, Building and Fire Inspection and Fire Chief for the area have no concerns with regards to fire protection and emergency services. The Manager, Building and Fire Inspection has noted that if the day care includes infants a sprinkler system would be required by the Building Code. The applicant has been informed.
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	Please see 8.9.4 (f) for further details.
<i>(v) the financial capacity of the Municipality to absorb any costs relating to the development.</i>	No municipal costs related to this amendment are anticipated.
<i>(b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;</i>	As noted above in 16.3.1 (a) (i), the applicant will be responsible for the provision of water and on-site sewage disposal.
<i>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	Please see 8.9.4 (f) for further details.

<i>(d) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The property is almost three (3) acres in size and has sufficient space for the intended uses.
<i>(e) the pattern of development which the proposal might create;</i>	The uses permitted by the development agreement will not create a pattern of development that is unusual for the area.
<i>(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;</i>	Based on a preliminary visual assessment there are no evident concerns in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding. The MCCAP Inland and Coastal Flooding maps do not show any risks of either inland or coastal flooding on the property. The applicant will be responsible if any issues arise in terms of the suitability of the area for the proposed uses.
<i>(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by laws and regulations; and</i>	The proposed amendment meets all relevant municipal, provincial and federal regulations.
<i>(h) any other matter required by relevant policies of this Strategy.</i>	Please see Appendix A for further details.

**APPENDIX C
DRAFT DEVELOPMENT AGREEMENT**



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2020.

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the Municipal Government Act, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the "Municipality")

OF THE FIRST PART

- and -

Sarah, Judith, and Erik Hein, of Newport and Tantallon, in the County of Hants and Halifax, Province of Nova Scotia,

(Hereinafter referred to as the "Owners")

OF THE SECOND PART

WHEREAS the Owners are the registered owners of a parcel of land located at 583 Hwy#236, Scotch Village, (PID 45380391), hereinafter referred to as the "Property", which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Property is designated Agriculture on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (June 26, 2008) (the "Municipal Planning Strategy") and zoned Agricultural Priority Two (AR-2) on the Zoning Map of the West Hants Land Use By-law (June 26, 2008) (the "Land Use By-law"); and

WHEREAS the Owners have requested that the Municipality enter into a development agreement to permit a Licensed Day Care on the Property (the "Development") pursuant to Section 6.1 (s) of the Land Use By-law which enables Council to consider a licensed day care as it is a listed permitted use in the Rural Commercial (RC) zone; and

WHEREAS the Council of the Municipality, at a meeting held on (**DATE**), approved this request and adopted this Agreement by policy;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use Bylaw, except those defined as follows:

“Outdoor Play Space” means an area of land used for outdoor recreation accessory to a Licensed Day Care.

1.2 Schedules

The following attached schedules shall form part of this agreement:

- Schedule A - Legal Description
- Schedule B – Site Layout

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

- (a) *Municipal Planning Strategy* means the West Hants Municipal Planning Strategy, approved on May 13, 2008, as amended, or successor By-laws;
- (b) *Land Use By-law* means the West Hants Land Use By-law, approved on May 13, 2008, as amended, or successor By-laws;
- (c) *Subdivision By-law* means the West Hants Subdivision By-law, approved on May 13, 2008, as amended, or successor By-laws.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

The Parties agree that uses on the Property shall be limited to the following:

- (a) those uses permitted by the underlying zoning in the Land Use By-law; and
- (b) Licensed Day Care.

Except as otherwise provided in this Agreement, the provisions of the Land Use By-law and the Subdivision By-law apply to any development undertaken pursuant to this agreement.

2.2 Development Location and Design

- (a) The proposed Licensed Day Care shall be located entirely within the existing building located as shown on the Site Layout, Schedule B.

- (b) Outdoor Play Space of up to approximately 1,500 sq. feet in area shall be permitted in the rear yard of the property as shown on Schedule B. The Outdoor Play Space shall not be within 20 feet of a property line. A fence with a minimum height of 4 ft. (1.2 m) shall surround the Outdoor Play Space and be opaque. The Outdoor Play Space shall not be constructed using a paved surface.

2.3 Access and Egress

The Owners shall maintain the existing driveway. The Development Officer, after consultation with the Municipal Engineer, may in his/her sole discretion approve minor incidental changes to the layout of the driveway.

2.4 Parking

A maximum of five (5) parking spaces may be used as part of the Licensed Day Care. The parking shall not be constructed using a paved surface and shall be located as shown on Schedule B.

2.5 Signs and Lighting

Signage and illumination shall be in accordance with sections 5.18 and 7.0 of the Land Use By-law which control lighting, size, location, and number of signs. Exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to minimize light spilling, glare or light cast over neighbouring properties or the street.

2.6 Water and Sewer Services

The Owners shall be responsible for ensuring adequate water and sewer services are available for the uses permitted.

2.7 Hours of Operation

The hours of operation for the Licensed Day Care shall be limited to 6:30 a.m. to 5:30 p.m. daily, Monday to Friday.

2.8 Maintenance

- (a) The Owners shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owners shall maintain the driveway to a level adequate to allow for access by emergency service vehicles.

PART 3 CHANGES and DISCHARGE

- 3.1** The Owners shall not vary or change the use of the Property from that provided for in Section 2.1 of this Agreement, *Use*, unless a new agreement is entered into with the Municipality or this agreement is amended.

- 3.2** Any matters in this agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed with the written consent of Council without a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.
- 3.3** The following matters are substantive matters:
- (a) the uses permitted on the property as listed in Section 2.1 *Use of this agreement*; and
 - (b) the development location on the property as listed in Section 2.2 *Development Location and Design* and Schedule B of this agreement.
- 3.4** Notwithstanding the foregoing, discharge of this agreement is not a substantive matter and this agreement may be discharged by Council without a public hearing.
- 3.5** Notice of Intent to Discharge this Agreement may be given by the Municipality to the Owners following a resolution of Council to give such Notice:
- (a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or
 - (b) at the discretion of the Municipality, with or without the concurrence of the Owners, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
 - (c) at any time upon the written request of the Owners, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.6** Council may discharge this Agreement 30 days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

- (a) The Owners may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.
- (b) Development as provided in Part 2 of this Agreement shall commence not later than 24 months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act 30 days after giving Notice of Intent to Discharge to the Owners. Upon the written request of the Owners, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.

- (c) If the Owners are bona fide delayed from commencing the development for reasons which are beyond the Owners' control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the Owners is excused for the period of the delay and the time period for the Owners to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

4.2 Material to be Provided

- (a) The Owners shall provide record drawings to the Development Officer for any portion of the development for which an engineered design is required, within ten days of completion of any work which requires the engineered design.
- (b) The Owners shall, upon written request, provide the Municipality with copies of any documentation, permits or approvals required by Provincial or Federal governments or agencies.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owners from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the masculine gender shall include the feminine and neutral gender
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owners about the suitability of the Property for the development proposed by this agreement. The Owners assume all risks and must ensure that any proposed development

complies with this Agreement and all other laws pertaining to the Development.

- (b) Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Owners in writing. In the event that the Owners have not cured any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.6 Costs

The Owners shall pay all costs associated with the advertising required for this Agreement, the costs of registering this Agreement, and all costs associated with any amendment thereof.

5.7 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the *Municipal Government Act*.

5.8 Assignment of Agreement

The Owners may, at any time and from time to time, transfer or assign this Agreement and its rights hereunder and may delegate its obligations hereunder to an assign, successor, heir, or purchaser of the land bound by this Agreement.

5.9 Written Notice

- (a) The Municipality may serve notice on the Owners personally or by ordinary mail which shall be deemed to have been received within three business days of mailing, addressed to Sarah Hein 98 Millard Court Newport, NS B0N 2A0 and Erik & Judith Hein 15 Inlet Drive Tantallon, NS B3Z 2L3, or at any other address provided by the Owners.

- (b) The Owners may serve notice on the Municipality by registered mail addressed to the Chief Administrative Officer, West Hants Regional Municipality, 76 Morison Drive, P.O. Box 3000, Windsor, NS, B0N 2T0.

5.10 Full Agreement

This agreement constitutes the entire agreement and contract entered into by the Municipality and the Owners. No other agreement or representation, oral or written, shall be binding.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto on the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

) **WEST HANTS REGIONAL**

) **MUNICIPALITY**

)

)

)

)

Per: _____

Witness

) Abraham Zebian, Mayor

)

) Per: _____

Witness

) Rhonda Brown, Municipal Clerk

)

)

)

)

)

)

)

)

)

Per: _____

Witness

) Sarah Hein

)

)

Per: _____

Witness

) Judith Hein

)

)

Per: _____

Witness

) Erik Hein

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in h presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in h presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **SARAH HEIN**, one of the parties thereto, signed, sealed and delivered the same in h presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

AFFIDAVIT OF CLERK
WEST HANTS REGIONAL MUNICIPALITY

I, Rhonda Brown of _____, Hants County, Nova Scotia make oath and swear that:

1. I am the Clerk of the West Hants Regional Municipality (The "Municipality") and I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. The Municipality is a body corporate pursuant to the Municipal Government Act, S.N.S. 1988, c.18, as amended.
3. I acknowledge that the Municipality executed the attached Instrument by its proper designates duly authorized in that regard under seal on the date of this Affidavit pursuant to subsection 13(3) of the Municipal Government Act, S.N.S. 1988, c.18, as amended. This acknowledgement is made pursuant to subsection 31(a) of the Registry Act, R.S.N.S. 1989, c.392 and/or clause 79(1)(a) of the Land Registry Act, S.N.S. 2001, c.6, as amended, for the purpose of registering or recording the Instrument.
4. The Municipality is resident in Canada for the purposes of the Income Tax Act (Canada).

Sworn before me at _____, Nova Scotia,
this _____, 2020.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

RHONDA BROWN

I CERTIFY that on this date Rhonda Brown personally came before me and swore under oath the foregoing Affidavit.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

CANADA
PROVINCE OF NOVA SCOTIA
HANTS COUNTY

AFFIDAVIT & PROOF OF EXECUTION (INDIVIDUAL)

I, Sarah Hein, the "Deponent", make oath and swear that:

1. **I acknowledge that I executed the foregoing instrument on the date of this affidavit; this acknowledgement is made for the purpose of registering such instrument pursuant to s.31(a) of the *Registry Act*, R.S.N.S. 1989, c.392 or s.79(1)(a) of the *Land Registration Act* as the case may be.**
2. I am nineteen years of age or older and am a resident of Canada under the *Income Tax Act* (Canada).
3. For the purpose of this affidavit "spouse" means an individual who is married to another individual; is married to another individual by a marriage that is voidable and has not been voided by a declaration of nullity; has gone through a form of marriage with an individual, in good faith, that is void and they are cohabiting or have cohabited within the preceding year; or is a party to a registered domestic-partner declaration made in accordance with Section 53 of the *Vital Statistics Act* as amended, but does not include an individual who becomes a former domestic partner pursuant to section 55(1) of the Act.
4. I am not a spouse and, with respect to the within property, I have no former domestic partner with the rights contemplated by section 55 of the *Vital Statistics Act*, nor any former spouse with rights in the within property under the *Matrimonial Property Act*, as amended.

I certify that on this _____, 2020
the Deponent came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

Sarah Hein

CANADA
PROVINCE OF NOVA SCOTIA
HANTS COUNTY

AFFIDAVIT & PROOF OF EXECUTION (INDIVIDUAL)

We, Judith Hein and Erik Hein, the "Deponents", make oath and swear that:

1. **We acknowledge that we executed the foregoing instrument on the date of this affidavit; this acknowledgement is made for the purpose of registering such instrument pursuant to s.31(a) of the *Registry Act*, R.S.N.S. 1989, c.392 or s.79(1)(a) of the *Land Registration Act* as the case may be.**
2. We are nineteen years of age or older and are residents of Canada under the *Income Tax Act* (Canada).
3. For the purpose of this affidavit "spouse" means an individual who is married to another individual; is married to another individual by a marriage that is voidable and has not been voided by a declaration of nullity; has gone through a form of marriage with an individual, in good faith, that is void and they are cohabiting or have cohabited within the preceding year; or is a party to a registered domestic-partner declaration made in accordance with Section 53 of the *Vital Statistics Act* as amended, but does not include an individual who becomes a former domestic partner pursuant to section 55(1) of the Act.
4. We are the spouses of each other. Neither of us has any other spouse nor, with respect to the within property, any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or any former spouse with rights under the *Matrimonial Property Act*. We consent to this disposition.

I certify that on this _____, 2020
the Deponent came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA

Judith Hein

Erik Hein

Schedule 'A'
Legal Description – PID 45380391

Registration County: HANTS COUNTY

Street/Place Name: NO 236 HIGHWAY /SCOTCH VILLAGE

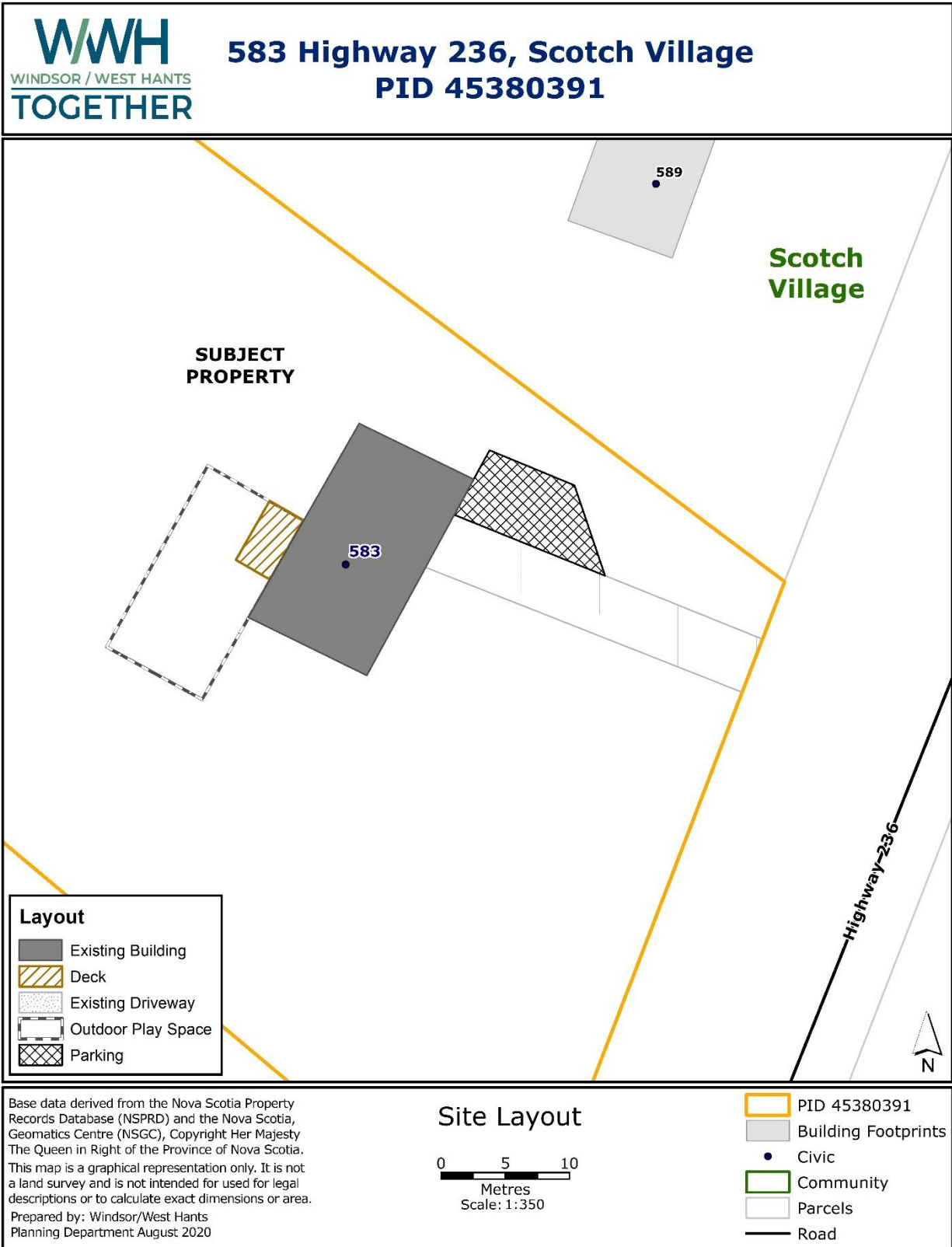
Title of Plan: PLAN OF S/D OF LOTS C-3, C-4 & C-5, LANDS OF ELIZABETH A CROCKETT, NO
236 HWY, SCOTCH VILLAGE

Designation of Parcel on Plan: LOT C-3

Registration Number of Plan: 95010766

Registration Date of Plan: 2009-12-29 13:09:29

Schedule 'B'
Site Layout





**WEST HANTS REGIONAL MUNICIPALITY
RECOMMENDATION REPORT**

To: Members of Planning Advisory Committee

Submitted by: _____
Saira Shah, Planner

Date: 2020-10-08

Subject: 426 Ashdale Rd Automotive Repair Shop Development Agreement

File: 20-20

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230.

RECOMMENDATION

In order to allow the requested development, staff recommends that the Planning Advisory Committee (PAC) forward a positive recommendation by passing the following motion:

that PAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to allow a automotive repair shop at 426 Ashdale Rd., Ashdale which is substantively the same as the draft set out in Appendix C of the report to the Planning Advisory Committee dated October 8, 2020.

BACKGROUND

An application was received on June 26, 2020 from Adrian and Nicole Parker to permit an automotive repair shop at 426 Ashdale Rd., Ashdale, West Hants. All necessary material for the application was submitted July 16th.

The property is approximately 5.5 acres and the automotive repair shop will be confined to within the existing garage. There will be up to five (5) parking spaces permitted on the site for the automotive repair shop.

DISCUSSION

The property is designated Agriculture on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (WHMPS) (Figure 1) and zoned Agricultural Priority Two (AR-2) on the Zoning Map of the West Hants Land Use By-law (WHLUB) (Figure 2). The property is bound on all sides by properties zoned Agricultural Priority Two (AR-2).

An automotive repair shop is not permitted in the Agricultural Priority Two (AR-2) zone.

Section 6.1 of the WHLUB, *Development Agreements*, states that “*The following developments may be considered only by development agreement in accordance with the Municipal Government Act and the Municipal Planning Strategy:*

(s) Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses in the Agricultural Priority Two (AR-2) zone and the Agricultural Priority Three (AR-3) zone outside the Growth Centre, Village and Hamlet designations in accordance with Policies 8.9.4 and 8.10.5 respectively of the Municipal Planning Strategy;

Although there is no specific definition for a Resource Industrial (M-1) use, the best basis for determining what is considered a Resource Industrial (M-1) use is the list of permitted uses in that zone in the WHLUB. An automotive repair shop is a listed permitted use in the Resource Industrial (M-1) zone.

Part 8 of the WHMPS contains the overall intention for areas designated Agriculture in West Hants; Section 8.9 indicates the intention of Council for non-agricultural development in areas zoned Agricultural Priority Two (AR-2).

Development Agreements

A development agreement is a legal contract between the Municipality and a property owner that describes the type of development permitted on a property. Development agreements provide an opportunity for Council to exercise a greater degree of control over aspects of a development proposal and allow Council to consider uses that would otherwise not be permitted in the underlying zone. A development agreement is binding upon a property until the agreement is discharged by Council.

The draft development agreement can be found in Appendix C.

Applicant Requests

In the WHLUB an automotive repair shop is defined as: a commercial establishment for the repair or replacement of parts in automotive, farm or forestry vehicles, machinery or equipment. The applicant has specifically stated they have no plans to include farm or forestry vehicles in their business. A definition for minor automotive

repair shop based on what the applicant has requested is included in the development agreement.

For the hours of operation, the applicant has stated they intend to operate the business on a part-time basis to start and hope to turn it into a full-time operation. To ensure the applicant has flexibility, the development agreement permits the automotive repair shop to operate between the hours of 8 a.m. and 9 p.m. daily.

Staff discussed parking needs with the applicant and determined that five (5) parking spots for the automotive repair shop would be sufficient. In terms of signage, the number of signs permitted in the WHLUB is adequate for the applicant.

WHMPS Specific Criteria

Policy 8.9.4 of the WHMPS establishes Council's intention to consider new non-resource Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses in the Agricultural Priority Two (AR-2) zone. The above policy establishes the criteria to be considered by Council, which are examined in detail in Appendix A.

Policy 8.9.4 (a) requires an agrologist report to determine that the development site has little or no agricultural capability in accordance with Policy 8.6.1. However, the automotive repair shop will only take place in an existing garage not resulting in any new buildings and the parking will only be up to a maximum of five (5) spaces on unpaved surface to reduce potential impact on soil. Staff considered the challenges in obtaining an agrologist and determined that an agrologist report is not necessary for this application. Although this criterion has not been met staff is making a positive recommendation due to the application meeting the overall intent of Council's policies.

In summary, the remaining criteria are met since:

- the automotive repair shop will be in an existing building and the parking will be unpaved and will therefore have no new impact on agricultural capability;
- the automotive repair shop and accessory parking is not one which, because of its size or nature, would be more appropriately located in a Growth Centre, Village or Hamlet; and
- Department of Transportation and Infrastructure Renewal confirmed the existing access is acceptable for the automotive repair shop.

WHMPS General Criteria

Policy 16.3.1 of the WHMPS states general criteria for any development agreement considered in West Hants. These criteria are examined in detail in Appendix B. In summary:

- the proposal is not premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and

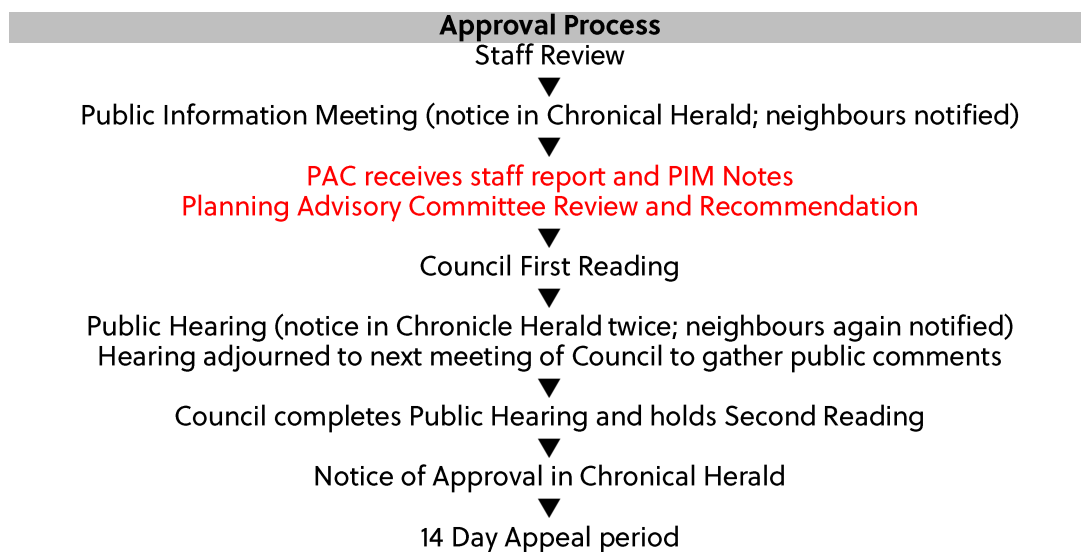
- the Fire Chief, Manager, Building and Fire Inspection, Director of Public Works and DTIR have no major concerns.

Municipal Climate Change Action Plan

The Municipal Climate Change Action Plan (MCCAP) Inland Flooding and Coastal Flooding maps do not show any risks of either inland or coastal flooding on the property.

Next Steps

As noted above, the proposed development has been considered within the context of both the specific and general policies of the WHMPS and is consistent with the intent, objectives and policies of the WHMPS. The development meets the intent of the specific and general criteria for development agreements as outlined in the WHMPS. As a result, it is reasonable to consider approving the development agreement to permit an automotive repair shop at 426 Ashdale Rd., Ashdale, West Hants.



FINANCIAL IMPLICATIONS

There are no financial implications associated with this application.

ALTERNATIVES

In response to the application, PAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the Development Agreement as drafted or as specifically revised by direction of PAC;
- provide alternative direction such as requesting further information on a specific topic.

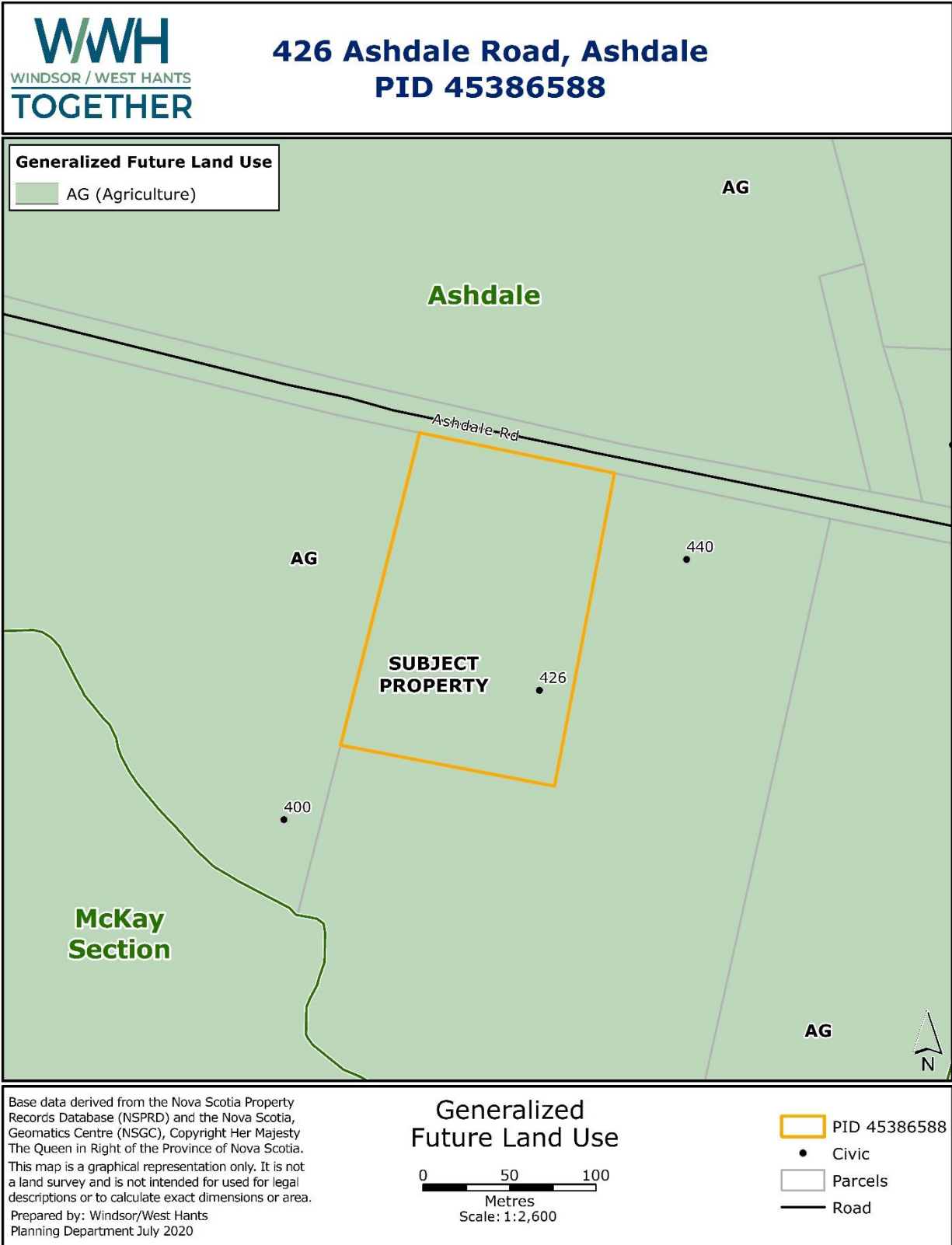
ATTACHMENTS

Figure 1 Generalized Future Land Use Map

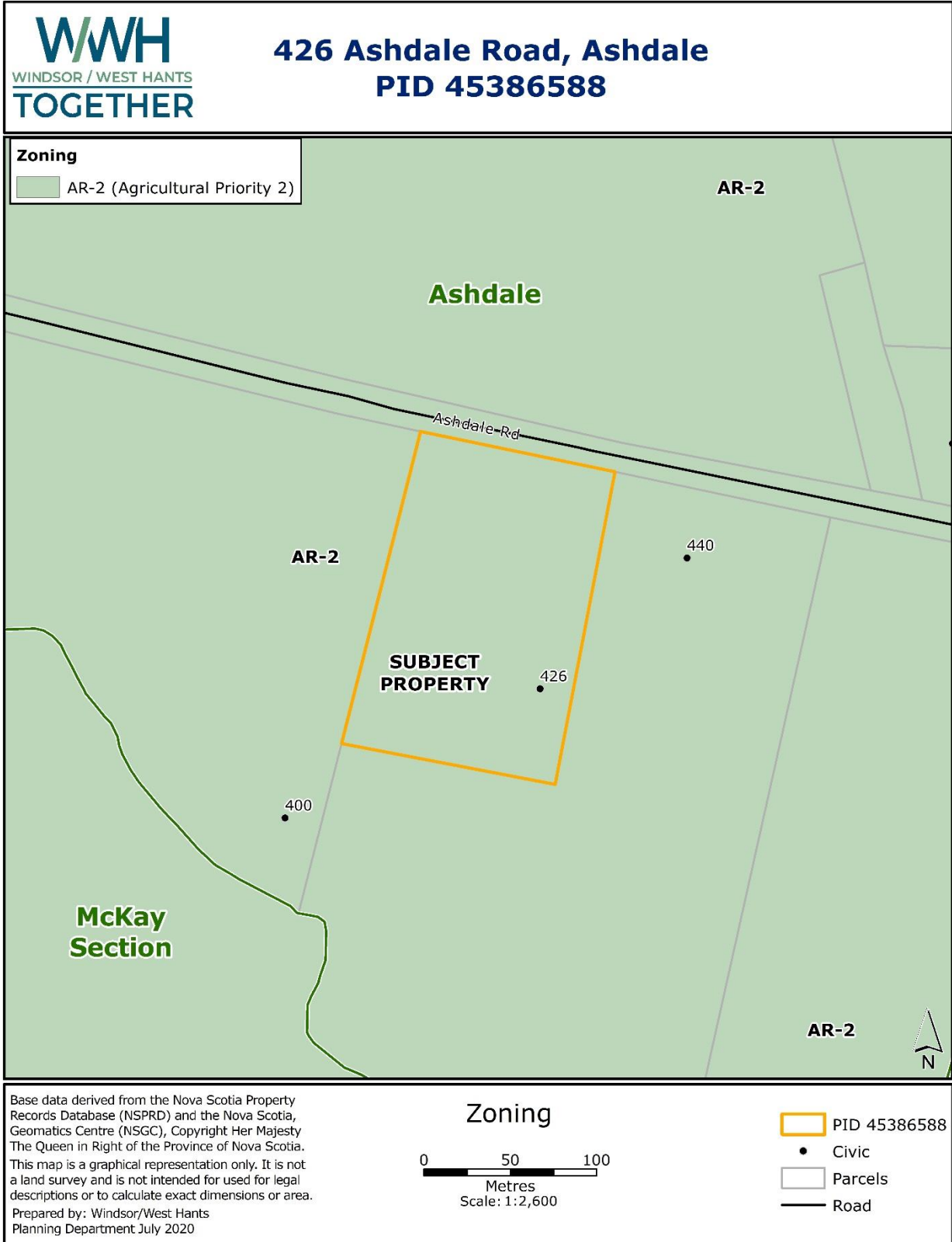
Figure 2 Existing Zoning Map
Appendix A Specific Criteria for Development Agreement
Appendix B General Criteria for Development Agreement
Appendix C Draft Development Agreement

Report Approved by: _____
Madelyn LeMay, Director of Planning and Development

**FIGURE 1
GENERALIZED FUTURE LAND USE MAP**



**FIGURE 2
EXISTING ZONING MAP**



APPENDIX A
SPECIFIC CRITERIA FOR DEVELOPMENT AGREEMENT

Policy 8.9.4 *It shall be the intention of Council to consider new non-resource Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses in the AR-2 zone by development agreement subject to the following:*

CRITERIA	COMMENT
<i>(a) the development site has been determined to have little or no agricultural capability in accordance with Policy 8.6.1;</i>	An agrologist report which is required by Policy 8.6.1 was not provided as the automotive repair shop will be in an existing building and the parking will be limited to five (5) spaces on an unpaved surface. Therefore, there will be no new impact on agricultural capability.
<i>(b) the proposed use will not compromise or adversely affect the operation or integrity of existing agricultural operations;</i>	The automotive repair shop will be contained in the existing garage and the parking will be limited to five (5) spaces on an unpaved surface. The uses will not compromise or adversely affect the operation or integrity of existing agricultural operations.
<i>(c) the predominant agricultural character of the area will not be adversely affected;</i>	The automotive repair shop will be contained in the existing garage and the parking will be limited to five (5) spaces on an unpaved surface. The uses will not impact the agricultural character of the area.
<i>(d) adequate separation distances and buffering between agricultural and non-agricultural uses can be provided;</i>	The automotive repair shop will be contained in the existing garage with the existing separation distances and the parking will be limited to five (5) spaces on an unpaved surface. The property is five and a half (5.5) acres and provides sufficient space between agricultural and non-agricultural uses.
<i>(e) the use is not one which, because of its size or nature, would be more appropriately located in a Growth Centre, Village or Hamlet;</i>	The automotive repair shop is limited based on the size of the existing garage and the accessory parking is limited to a maximum of five (5) spaces.
<i>(f) safe and efficient roadway access is provided;</i>	Department of Transportation and Infrastructure Renewal confirmed the

	existing access is acceptable for the proposed future commercial use and a negative impact to the Provincial Road network is not anticipated.
<i>(g) adequate on-site parking is provided;</i>	Five (5) additional parking spaces are permitted in the development agreement for the automotive repair shop.
<i>(h) the development is compatible with adjacent land uses with respect to:</i>	
<i>(i) traffic generation and traffic safety;</i>	Please see 8.9.4 (f) for further details.
<i>(ii) hours of operation;</i>	The hours of operation are limited in the development agreement to 8 a.m. to 9 p.m. daily to ensure there are quiet hours for neighbours.
<i>(iii) size and design of building(s);</i>	The automotive repair shop will be in an existing garage.
<i>(iv) signage; and</i>	All signage must meet the requirements of the West Hants Land Use By-law.
<i>(v) pedestrian circulation and safety;</i>	No impact on pedestrian traffic or safety is anticipated.
<i>(i) any other matter which may be addressed in a development agreement;</i>	No other matters have been raised.
<i>(j) Policy 16.3.1.</i>	See Appendix B.

APPENDIX B
GENERAL CRITERIA FOR DEVELOPMENT AGREEMENT

Policy 16.3.1 *In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:*

CRITERIA	COMMENT
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	The Director of Public Works stated that the property does not currently have municipal water or sewer, nor are there plans to extend services to the site. As a result, the applicant is responsible for determining adequate services for the proposed use. The applicant has been informed.
<i>(ii) the adequacy of school facilities;</i>	No impact on school facilities is anticipated.
<i>(iii) the adequacy of fire protection and other emergency services;</i>	The Manager, Building and Fire Inspection and Fire Chief for the area have no concerns with regards to fire protection and emergency services. The Manager, Building and Fire Inspection has noted that the garage is only 20 feet from one property line. The Building Code requires that when the applicant applies for their permit for the automotive repair shop the exterior wall that is only 20 feet from the property line will be required to have a one (1) hour Fire Rating with non-combustible cladding. The applicant has been informed.
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	Please see 8.9.4 (f) for further details.
<i>(v) the financial capacity of the Municipality to absorb any costs relating to the development.</i>	No municipal costs related to this amendment are anticipated.
<i>(b) whether the development is serviced, or capable of being serviced, by a potable water supply</i>	As noted above in 16.3.1 (a) (i), the applicant will be responsible for the

<i>and either central sewer or an approved on-site sewage disposal system;</i>	provision of water and on-site sewage disposal.
<i>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	Please see 8.9.4 (f) for further details.
<i>(d) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The property is five and a half (5.5) acres in area and has sufficient space for the intended use.
<i>(e) the pattern of development which the proposal might create;</i>	The use permitted by the development agreement will not create a pattern of development that is unusual for the area.
<i>(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;</i>	Based on a preliminary visual assessment there are no evident concerns in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding. The MCCAP Inland and Coastal Flooding maps do not show any risks of either inland or coastal flooding on the property. The applicant will be responsible if any issues arise in terms of the suitability of the area for the proposed uses.
<i>(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by laws and regulations; and</i>	The proposed amendment meets all relevant municipal, provincial and federal regulations.
<i>(h) any other matter required by relevant policies of this Strategy.</i>	Please see Appendix A for further details.

**APPENDIX C
DRAFT DEVELOPMENT AGREEMENT**



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2020.

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the Municipal Government Act, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the "Municipality")

OF THE FIRST PART

- and -

Adrian and Nicole Parker, of 426 Ashdale Rd., Ashdale, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the "Owners")

OF THE SECOND PART

WHEREAS the Owners are the registered owners of a parcel of land located at 426 Ashdale Rd., Ashdale, (PID 45386588), hereinafter referred to as the "Property", which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Property is designated Agriculture on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (June 26, 2008) (the "Municipal Planning Strategy") and zoned Agricultural Priority Two (AR-2) on the Zoning Map of the West Hants Land Use By-law (June 26, 2008) (the "Land Use By-law"); and

WHEREAS the Owners have requested that the Municipality enter into a development agreement to permit an Minor Automotive Repair Shop on the Property (the "Development") and Section 6.1 (s) of the Land Use By-law enables Council to consider an Automotive Repair Shop as it is a listed permitted use in the Resource Industrial (M-1) zone; and

WHEREAS the Council of the Municipality, at a meeting held on (DATE), approved this request and adopted this Agreement by policy;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use Bylaw, except those defined as follows:

“Minor Automotive Repair Shop” means a commercial establishment for the repair or replacement of parts in automotive machinery or equipment excluding farm and forestry vehicles.

1.2 Schedules

The following attached schedules shall form part of this agreement:

- Schedule A - Legal Description
- Schedule B –Site Layout

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

- (a) *Municipal Planning Strategy* means the West Hants Municipal Planning Strategy, approved on May 13, 2008, as amended, or successor By-laws;
- (b) *Land Use By-law* means the West Hants Land Use By-law, approved on May 13, 2008, as amended, or successor By-laws;
- (c) *Subdivision By-law* means the West Hants Subdivision By-law, approved on May 13, 2008, as amended, or successor By-laws.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

The Parties agree that uses on the Property shall be limited to the following:

- (a) those uses permitted by the underlying zoning in the Land Use By-law; and
- (b) Minor Automotive Repair Shop.

Except as otherwise provided in this Agreement, the provisions of the Land Use By-law and the Subdivision By-law apply to any development undertaken pursuant to this agreement.

2.2 Development Location and Design

The proposed Minor Automotive Repair Shop use shall be located entirely within the existing garage located as shown on the Site Layout, Schedule B.

2.3 Access and Egress

The Owners shall maintain the existing driveway. The Development Officer, after consultation with the Municipal Engineer, may in their sole discretion approve minor incidental changes to the layout of the driveway.

2.4 Parking

A maximum of five (5) parking spaces may be used as part of the Minor Automotive Repair Shop. The parking shall not be constructed using a paved surface and is to be located approximately as shown on Schedule B.

2.5 Signs and Lighting

Signage and illumination shall be in accordance with sections 5.18 and 7.0 of the Land Use By-law which control lighting, size, location, and number of signs. Exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to minimize light spilling, glare or light cast over neighbouring properties or the street.

2.8 Water and Sewer Services

The property is not serviced by municipal water and sewer. The Owners shall be responsible for ensuring adequate water and sewer services are available for the uses permitted.

2.9 Hours of Operation

The hours of operation for the Minor Automotive Repair Shop shall be limited to between 8 a.m. and 9 p.m. daily, Monday to Sunday, inclusive.

2.10 Maintenance

- (a) The Owners shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owners shall maintain the driveway to a level adequate to allow for access by emergency services vehicles.

PART 3 CHANGES and DISCHARGE

3.1 The Owners shall not vary or change the use of the Property from that provided for in Section 2.1 of this Agreement, *Use*, unless a new agreement is entered into with the Municipality or this agreement is amended.

3.2 Any matters in this agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed with the written consent of Council without

a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.

- 3.3** The following matters are substantive matters:
- (a) the uses permitted on the property as listed in Section 2.1 *Use of this agreement*; and
 - (b) the development location on the property as listed in Section 2.2 *Development Location and Design* and Schedule B of this agreement.
- 3.4** Notwithstanding the foregoing, discharge of this agreement is not a substantive matter and this agreement may be discharged by Council without a public hearing.
- 3.5** Notice of Intent to Discharge this Agreement may be given by the Municipality to the Owners following a resolution of Council to give such Notice:
- (a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or
 - (b) at the discretion of the Municipality, with or without the concurrence of the Owners, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
 - (c) at any time upon the written request of the Owners, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.6** Council may discharge this Agreement 30 days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

- (a) The Owners may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.
- (b) Development as provided in Part 2 of this Agreement shall commence not later than 24 months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act 30 days after giving Notice of Intent to Discharge to the Owners. Upon the written request of the Owners, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.
- (c) If the Owners are bona fide delayed from commencing the development for reasons which are beyond the Owners' control, the determination of which

shall be at the sole discretion of the Development Officer, then performance by the Owners is excused for the period of the delay and the time period for the Owners to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

4.2 Material to be Provided

- (a) The Owners shall provide record drawings to the Development Officer for any portion of the development for which an engineered design is required, within ten days of completion of any work which requires the engineered design.
- (b) The Owners shall, upon written request, provide the Municipality with copies of any documentation, permits or approvals required by Provincial or Federal governments or agencies.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owners from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the masculine gender shall include the feminine and neutral gender.
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owners about the suitability of the Property for the development proposed by this agreement. The Owners assume all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the Development.

- (b) Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Owners in writing. In the event that the Owners have not cured any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.6 Costs

The Owners shall pay all costs associated with the advertising required for this Agreement, the costs of registering this Agreement, and all costs associated with any amendment thereof.

5.7 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the *Municipal Government Act*.

5.8 Assignment of Agreement

The Owners may, at any time and from time to time, transfer or assign this Agreement and its rights hereunder and may delegate its obligations hereunder to an assign, successor, heir, or purchaser of the land bound by this Agreement.

5.9 Written Notice

- (a) The Municipality may serve notice on the Owners personally or by ordinary mail which shall be deemed to have been received within three business days of mailing, addressed to Adrian and Nicole Parker, 426 Ashdale Road, Ashdale, Nova Scotia, B0N 2A0 or at any other address provided by the Owners.
- (b) The Owners may serve notice on the Municipality by registered mail addressed to the Chief Administrative Officer, West Hants Regional Municipality, 76 Morison Drive, P.O. Box 3000, Windsor, NS, B0N 2T0.

5.10 Full Agreement

This agreement constitutes the entire agreement and contract entered into by the Municipality and the Owners. No other agreement or representation, oral or written, shall be binding.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto on the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

) **WEST HANTS REGIONAL**
) **MUNICIPALITY**

)
)
)
)
)

Per: _____

Witness

) Abraham Zebian, Mayor

)

) Per: _____

Witness

) Rhonda Brown, Municipal Clerk

)

)

)

)

)

)

)

)

Per: _____

Witness

) Adrian Parker

)

)

Per: _____

Witness

) Nicole Parker

)

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in h presence.

A Commissioner of the Supreme Court of Nova Scotia

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in h presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **ADRIAN PARKER**, one of the parties thereto, signed, sealed and delivered the same in h presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2020, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **NICOLE PARKER**, one of the parties thereto, signed, sealed and delivered the same in h presence.

A Commissioner of the Supreme Court of Nova Scotia

AFFIDAVIT OF CLERK
THE REGION OF WINDSOR AND WEST HANTS MUNICIPALITY

I, Rhonda Brown of _____, Hants County, Nova Scotia make oath and swear that:

1. I am the Clerk of the West Hants Regional Municipality (The "Municipality") and I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. The Municipality is a body corporate pursuant to the Municipal Government Act, S.N.S. 1988, c.18, as amended.
3. I acknowledge that the Municipality executed the attached Instrument by its proper designates duly authorized in that regard under seal on the date of this Affidavit pursuant to subsection 13(3) of the Municipal Government Act, S.N.S. 1988, c.18, as amended. This acknowledgement is made pursuant to subsection 31(a) of the Registry Act, R.S.N.S. 1989, c.392 and/or clause 79(1)(a) of the Land Registry Act, S.N.S. 2001, c.6, as amended, for the purpose of registering or recording the Instrument.
4. The Municipality is resident in Canada for the purposes of the Income Tax Act (Canada).

Sworn before me at _____, Nova Scotia,
this _____, 2020.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

RHONDA BROWN

I CERTIFY that on this date Rhonda Brown personally came before me and swore under oath the foregoing Affidavit.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

CANADA
PROVINCE OF NOVA SCOTIA
HANTS COUNTY

AFFIDAVIT & PROOF OF EXECUTION (INDIVIDUAL)

We, Adrian Parker and Nicole Parker, the "Deponents", make oath and swear that:

1. **We acknowledge that we executed the foregoing instrument on the date of this affidavit; this acknowledgement is made for the purpose of registering such instrument pursuant to s.31(a) of the *Registry Act*, R.S.N.S. 1989, c.392 or s.79(1)(a) of the *Land Registration Act* as the case may be.**
2. We are nineteen years of age or older and are residents of Canada under the *Income Tax Act* (Canada).
3. For the purpose of this affidavit "spouse" means an individual who is married to another individual; is married to another individual by a marriage that is voidable and has not been voided by a declaration of nullity; has gone through a form of marriage with an individual, in good faith, that is void and they are cohabiting or have cohabited within the preceding year; or is a party to a registered domestic-partner declaration made in accordance with Section 53 of the *Vital Statistics Act* as amended, but does not include an individual who becomes a former domestic partner pursuant to section 55(1) of the Act.
4. We are the spouses of each other. Neither of us has any other spouse nor, with respect to the within property, any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or any former spouse with rights under the *Matrimonial Property Act*. We consent to this disposition.

I certify that on this _____, 2020
the Deponent came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA

Adrian Parker

Nicole Parker

Schedule A
Legal Description – PID 45386588

Registration County: HANTS COUNTY
Street/Place Name: ASHDALE ROAD /ASHDALE
Title of Plan: PLAN OF S/D OF LOT P-1, LANDS CONVEYED TO ROSS EUGENE PARKER,
ASHDALE RD, ASHDALE
Designation of Parcel on Plan: LOT P-1
Registration Number of Plan: 98914501
Registration Date of Plan: 2011-08-15 14:57:03

Subject to a Nova Scotia Power Inc. Easement, more fully described in Document
#100457804, registered on April 12, 2012.

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry
Act or registered under the Land Registration Act

Registration District: HANTS COUNTY

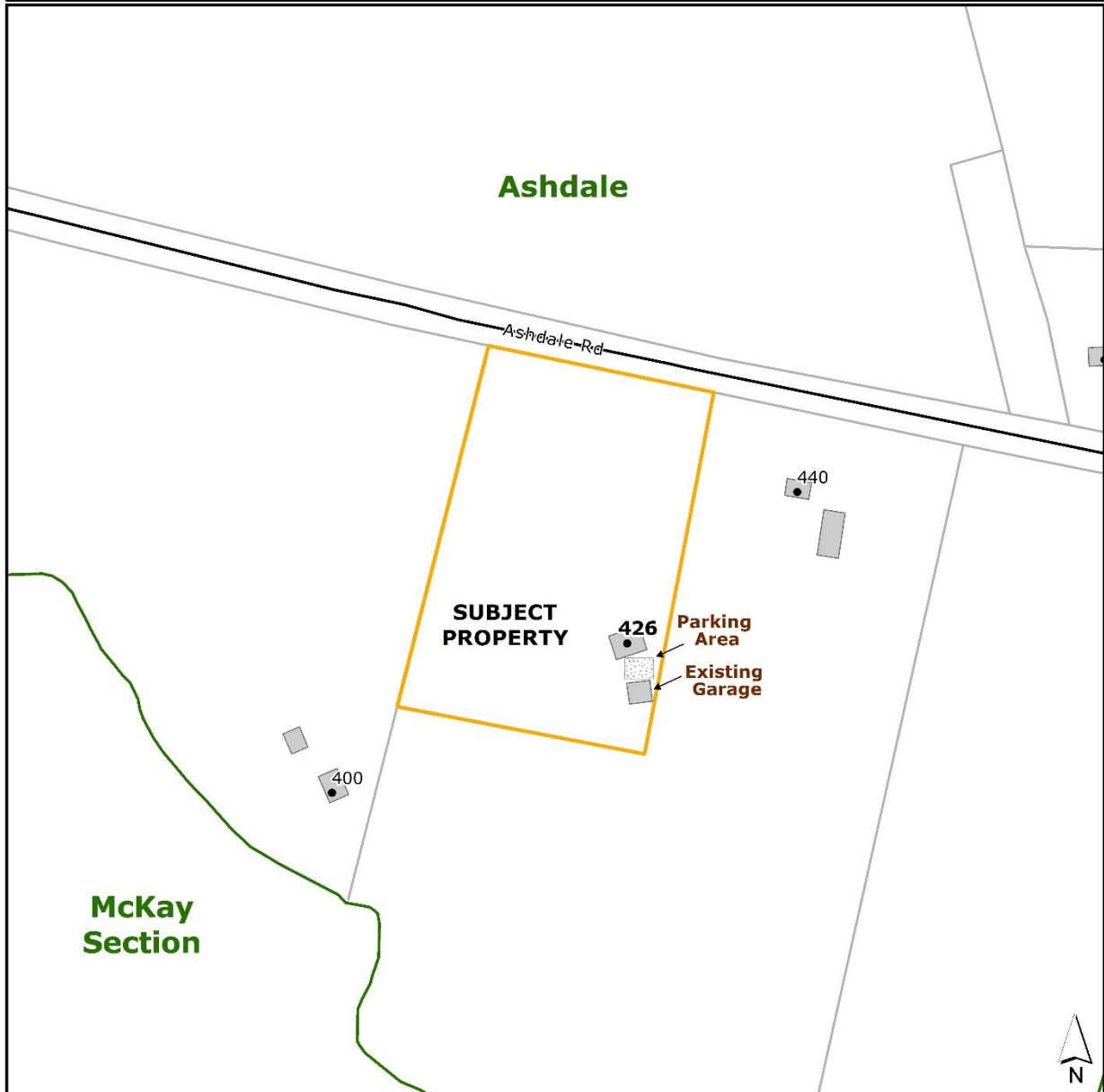
Registration Year: 2011

Plan or Document Number: 98914501

Schedule B
Site Layout

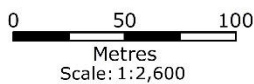


426 Ashdale Road, Ashdale
PID 45386588



Base data derived from the Nova Scotia Property Records Database (NSPRD) and the Nova Scotia, Geomatics Centre (NSGC), Copyright Her Majesty The Queen in Right of the Province of Nova Scotia. This map is a graphical representation only. It is not a land survey and is not intended for use for legal descriptions or to calculate exact dimensions or area. Prepared by: Windsor/West Hants Planning Department August 2020

Site Layout



- PID 45386588
- Building Footprints
- Parking Area
- Civic
- Parcels
- Road